

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KAREL SPIKES,) Case No. 08-CV-0453-JLS (JMA)
)
Plaintiff,) **CASE MANAGEMENT CONFERENCE**
) **ORDER REGULATING DISCOVERY AND**
v.) **OTHER PRETRIAL PROCEEDINGS**
)
SPARKY'S TRANSMISSION, INC., et) (Fed. R. Civ. P. 16)
al.,) (Local Rule 16.1)
) (Fed. R. Civ. P. 26)
Defendants.)
)
_____)

Pursuant to Rule 16 of the Federal Rules of Civil Procedure,
a telephonic Case Management Conference was held on August 8,
2008 at 9:00 a.m. After consulting with the attorneys of record
for the parties and being advised of the status of the case, and
good cause appearing,

IT IS HEREBY ORDERED:

1. Any motion to join other parties, to amend the
pleadings, or to file additional pleadings shall be filed on or
before October 6, 2008.

2. Plaintiff(s) (or the party(ies) having the burden of
proof on any claim) shall serve on all parties a list of experts

1 whom that party expects to call at trial on or before September
2 8, 2008. Defendant(s) (or the party(ies) defending any claim,
3 counterclaim, crossclaim, or third party claim) shall serve on
4 all parties a list of experts whom that party expects to call at
5 trial on or before September 29, 2008. On or before October 14,
6 2008, any party may supplement its designation in response to any
7 other party's designation, so long as that party has not
8 previously retained an expert to testify on that subject. Expert
9 designations shall include the name, address, and telephone
10 number of each expert, and a reasonable summary of the testimony
11 the expert is expected to provide. The list shall also include
12 the normal rates the expert charges for deposition and trial
13 testimony.

14 The parties must identify any person who may be used at
15 trial to present evidence pursuant to Rules 702, 703 or 705 of
16 the Federal Rules of Evidence. This requirement is not limited
17 to retained experts.

18 **Please be advised that failure to comply with this section**
19 **or any other discovery order of the Court may result in the**
20 **sanctions provided for in Fed. R. Civ. P. 37, including a**
21 **prohibition on the introduction of experts or other designated**
22 **matters in evidence.**

23 3. A telephonic Case Management Conference shall be held
24 before Magistrate Judge Adler on November 17, 2008 at 9:30 a.m.
25 Counsel for each party shall appear telephonically at this
26 conference. The Court will initiate the conference call.

27 4. All expert disclosures required by Fed. R. Civ. P.
28 26(a)(2) shall be served on all parties on or before February 6,

1 **2009.** Any contradictory or rebuttal information shall be
2 disclosed on or before **March 6, 2009.** In addition, Fed. R. Civ.
3 P. 26(e)(1) imposes a duty on the parties to supplement the
4 expert disclosures made pursuant to Fed. R. Civ. P. 26(a)(2)(B)
5 by the time that pretrial disclosures are due under Fed. R. Civ.
6 P. 26(a)(3) (discussed below). This disclosure requirement
7 applies to all persons retained or specially employed to provide
8 expert testimony, or whose duties as an employee of the party
9 regularly involve the giving of expert testimony.

10 **Please be advised that failure to comply with this section**
11 **or any other discovery order of the Court may result in the**
12 **sanctions provided for in Fed. R. Civ. P. 37, including a**
13 **prohibition on the introduction of experts or other designated**
14 **matters in evidence.**

15 5. All discovery shall be completed by all parties on or
16 before **April 3, 2009.** "Completed" means that all discovery under
17 Rules 30 through 36 of the Federal Rules of Civil Procedure must
18 be initiated a sufficient period of time in advance of the cutoff
19 date, so that it may be completed by the cutoff date, taking into
20 account the times for service, notice, and response as set forth
21 in the Federal Rules of Civil Procedure. **All disputes concerning**
22 **discovery shall be brought to the attention of Magistrate Judge**
23 **Adler no later than thirty (30) days following the date upon**
24 **which the event giving rise to the dispute occurred. For oral**
25 **discovery, the event giving rise to the discovery dispute is the**
26 **completion of the transcript of the affected portion of the**
27 **deposition. For written discovery, the event giving rise to the**
28 **discovery dispute is the service of the response. Counsel are**

1 required to meet and confer prior to contacting the Court
2 regarding all discovery disputes pursuant to the requirements of
3 Local Rules 16.5(k) and 26.1(a).

4 6. All motions, other than motions to amend or join
5 parties, or motions in limine, shall be filed on or before May 4,
6 2009.¹ Motions will not be heard or calendared unless counsel
7 for the moving party has obtained a motion hearing date from the
8 law clerk of the judge who will hear the motion. Be advised that
9 the period of time between the date you request a motion date and
10 the hearing date may be up to sixty (60) days. Please plan
11 accordingly. Failure of counsel to timely request a motion date
12 may result in the motion not being heard.

13 Briefs or memoranda in support of or in opposition to any
14 pending motion shall not exceed twenty-five (25) pages in length
15 without leave of the judge who will hear the motion. No reply
16 memorandum shall exceed ten (10) pages without such leave of
17 court.

18 7. A Mandatory Settlement Conference shall be conducted on
19 August 3, 2009 at 10:00 a.m. in the chambers of Magistrate Judge
20 Adler. Counsel shall submit settlement statements **directly** to
21 Magistrate Judge Adler's chambers no later than July 27, 2009.²
22 The parties may either submit confidential settlement statements
23 or may exchange their settlement statements. Each party's
24 settlement statement shall set forth the party's statement of the

25
26 ¹Counsel should note that while historically motion cutoff
27 deadlines issued by this Court were deadlines for motion hearings, the
28 motion cutoff dates now being issued establish deadlines for the
parties to file motions.

²Statements may be delivered directly to chambers, e-mailed to
efile_adler@casd.uscourts.gov, or faxed to (619) 702-9939.

1 case, identify controlling legal issues, concisely set out issues
2 of liability and damages, and shall set forth the party's
3 settlement position, including the last offer or demand made by
4 that party, and a separate statement of the offer or demand the
5 party is prepared to make at the settlement conference. **The**
6 **settlement conference briefs shall not be filed with the Clerk of**
7 **the Court.**

8 All named parties, all counsel, and any other person(s)
9 whose authority is required to negotiate and enter into
10 settlement shall appear in person at the conference. The
11 individual(s) present at the Mandatory Settlement Conference with
12 settlement authority must have the unfettered discretion and
13 authority on behalf of the party to: 1) fully explore all
14 settlement options and to agree during the Mandatory Settlement
15 Conference to any settlement terms acceptable to the party (G.
16 Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648, 653
17 (7th Cir. 1989)), 2) change the settlement position of a party
18 during the course of the Mandatory Settlement Conference (Pitman
19 v. Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003)),
20 and 3) negotiate a settlement without being restricted by any
21 predetermined level of authority (Nick v. Morgan's Foods, Inc.,
22 270 F.3d 590, 596 (8th Cir. 2001)).

23 Governmental entities may appear through litigation counsel
24 only. As to all other parties, appearance by litigation counsel
25 only is not acceptable. Retained outside corporate counsel shall
26 not appear on behalf of a corporation as the party who has the
27 authority to negotiate and enter into a settlement. **The failure**
28 **of any counsel, party or authorized person to appear at the**

1 **Mandatory Settlement Conference as required shall be cause for**
2 **the immediate imposition of sanctions.** All conference
3 discussions will be informal, off the record, privileged, and
4 confidential.

5 8. Counsel shall serve on each other and file their
6 Memoranda of Contentions of Fact and Law and take any other
7 action required by Local Rule 16.1(f)(2) on or before August 20,
8 2009. On or before this date, the parties must also comply with
9 the pretrial disclosure requirements of Fed. R. Civ. P. 26(a)(3).

10 9. Counsel shall confer and take the action required by
11 Local Rule 16.1(f)(4) on or before August 27, 2009.

12 10. The Proposed Final Pretrial Conference order, including
13 written objections, if any, to any party's Fed. R. Civ. P.
14 26(a)(3) pretrial disclosures, shall be prepared, served, and
15 lodged with the Clerk's Office on or before September 3, 2009 and
16 shall be in the form prescribed in Local Rule 16.1(f)(6). Any
17 objections shall comply with the requirements of Fed. R. Civ. P.
18 26(a)(3). **Please be advised that the failure to file written**
19 **objections to a party's pretrial disclosures may result in the**
20 **waiver of such objections, with the exception of those made**
21 **pursuant to Rules 402 (relevance) and 403 (prejudice, confusion**
22 **or waste of time) of the Federal Rules of Evidence.**

23 11. The final Pretrial Conference is scheduled on the
24 calendar of the Honorable Sammartino on September 10, 2009 at
25 1:30 p.m. The trial date will be assigned by the district judge
26 at the pretrial conference.

27 12. The dates and times set forth herein will not be
28 modified except for good cause shown.

1 13. Plaintiff's(s') counsel shall serve a copy of this order
2 on all parties that enter this case hereafter.

3 **IT IS SO ORDERED.**

4 DATED: August 8, 2008

5 
6 Jan M. Adler
U.S. Magistrate Judge